

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

<i>THOMAS HAYDEN,</i>)	
)	
Plaintiff,)	
)	Case No.
v.)	
)	JURY TRIAL DEMANDED
<i>NAPLETON MID RIVERS IMPORTS,</i>)	
<i>INC. d/b/a Napleton's Mid Rivers Kia.,</i>)	On removal from the Circuit Court of St.
)	Charles County Case 2211-CC00493
and)	
)	
<i>KIA MOTORS AMERICA, INC.</i>)	
)	
Defendants.)	
)	

NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, defendant Kia America, Inc. (formerly known and misnamed in plaintiff's Petition as Kia Motors America, Inc., and hereinafter "Kia"), by and through its undersigned counsel, hereby removes this action from the Circuit Court of St. Charles County, State of Missouri (the "State Court Action") to the United States District Court for the Eastern District of Missouri, Eastern Division. In support of this Notice of Removal, defendant avers as follows:

Procedural History and Plaintiff's Allegations

1. On May 31, 2022, plaintiff Thomas Hayden ("Plaintiff") filed the State Court Action in the Circuit Court of St. Charles County, State of Missouri. The Petition is attached hereto as Exhibit A, which also includes a copy of the process, pleadings, and orders received in the State Court Action.

2. Plaintiff's Petition was served upon Kia on June 13, 2022. (*See*, Exhibit A at Summons).

3. The Petition alleges five counts against defendants Napleton Mid Rivers Imports ("Napleton") and Kia, including negligence, strict product liability, and *res ipsa loquitor*, all related to burns on Plaintiff's hands and arms that he claims to have sustained following an alleged engine fire associated with his 2015 Kia Soul automobile.

The Procedural Requirements for Removal Have Been Satisfied

4. As described below, this case is properly removed to this Court pursuant to 28 U.S.C. §§ 1332 and 1441 because it is a civil action in which the amount in controversy exceeds the sum of \$75,000, exclusive of costs and interest, and it is between citizens of different states. All co-defendants who have been properly joined and served with state-court process have consented to removal.

Grounds for Removal

A. There Is Complete Diversity of Citizenship

5. On May 31, 2022, Plaintiff commenced the State Court Action by filing a Petition in the Circuit Court of St. Charles County, State of Missouri (the "Petition"). Plaintiff served a copy of the subpoena and Petition on defendant Kia on June 13, 2022, and on defendant Napleton on June 9, 2022.

6. Plaintiff is an individual whose primary residence is in the State of Missouri. Upon information and belief, his address is 968 Lands End Cir., Saint Charles MO 63304. (Exhibit B). Therefore, Plaintiff is a citizen of Missouri.

7. Kia is a corporation registered in the State of California and with its principal place of business in California. (Exhibit C). Therefore, Kia is a citizen of California.

8. Napleton is a corporation registered in the State of Illinois and with its principal place of business in Illinois. (Exhibit D). Therefore, Napleton is a citizen of Illinois.

B. The Amount-In-Controversy Requirement Is Met

9. It is apparent from the face of the Petition and information known about plaintiff's claimed injuries that Plaintiff seeks recovery of an amount in excess of \$75,000.

10. The Petition alleges that as a direct and proximate result of defendants Kia and Napleton's actions, Plaintiff suffered "significant second and third-degree burns" on his hands and arms. (Exhibit A).

11. The Petition further claims that as a direct and proximate result of these alleged injuries, Plaintiff has incurred medical expenses, lost wages, and pain and suffering.

12. Kia has received a settlement demand from Plaintiff in the amount of \$150,000. (Exhibit E).

13. This Court has subject matter jurisdiction in a diversity case when a fact finder could legally conclude, from the pleadings and proof adduced to the court before trial, that the damages the Plaintiff suffered are greater than \$75,000. *Kopp v. Kopp*, 280 F.3d 883, 885 (8th Cir. 2002).

14. This Court has original diversity subject matter jurisdiction over the claims brought by Plaintiff pursuant to 28 U.S.C. § 1332(a), because the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and is between citizens of different States.

Other Procedural Requirements

15. Plaintiff served a copy of the summons and Petition on defendant Kia on June 13, 2022. In accordance with 28 U.S.C. § 1446(b), this Notice of Removal is being timely filed within thirty days of receipt of the summons and Petition by Kia.

16. The United States District Court for the Eastern District of Missouri embraces St. Charles County, the county in which the State Court Action is currently pending. Therefore, this action is properly removed to the Eastern District of Missouri, Eastern Division pursuant to 28 U.S.C. §§ 105(a)(1) and 1441(a).

17. Defendant Napleton consents to removal. Its consent has been filed concurrently with this Notice. (See Exhibit F).

18. A Removal Notice, together with a copy of this Notice, shall be filed with the Clerk of the Circuit Court of St. Charles County, and shall be served on counsel for Plaintiff.

19. No motions in this action are pending in the State court.

20. Pursuant to 28 U.S.C. § 1446(a), defendant Kia attaches to this Notice true and correct copies of all process, pleadings, and orders served on the defendants in the State Court Action pending in Missouri as Exhibit A.

Non-Waiver of Defenses

21. By removing this action from St. Charles County, Missouri state court, defendant Kia does not waive any defenses available to it.

22. By removing this action from St. Charles County, Missouri state court, defendant Kia does not admit any of the allegations in the Petition.

Jury Trial Demanded

23. Defendant Kia demands a jury trial.

WHEREFORE, defendant Kia America, Inc. hereby removes this case from the Circuit Court of St. Charles County, Missouri to the United States District Court for the Eastern District of Missouri.

STANTON | BARTON LLC

By: /s/ Todd C. Stanton

Todd C. Stanton, 49312 MO
Erin Salfen, 69824 MO
8000 Maryland Avenue | Suite 450
St. Louis, MO 63105
314-455-6500
314-455-6524 (Fax)
tstanton@stantonbarton.com
esalfen@stantonbarton.com

Attorneys for Defendant Kia America, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of this Notice of Removal were served on July 12, 2022, on the following attorneys of record by CM/ECF and email:

Ms. Megen I. Hoffman
Attorney at Law
Law Offices of Rick Barry, P.C.
1034 South Brentwood Blvd., Suite 1301
St. Louis, MO 63117
Phone: 314-918-8900
Fax: 314-918-8901
megens@rickbarrypc.com

Attorneys for Plaintiff Thomas Hayden

Sean P. Dolan
Evans & Dixon, LLC
One Metropolitan Square
211 North Broadway, Suite 2500
St. Louis, Missouri 63102
(314) 621-7755
sdolan@evans-dixon.com

Attorneys for Defendant Napleton Kia

/s/ Todd Stanton